LEGISLATIVE DEPARTMENT.

The 4th April 1895.

The following Draft Regulations which are under the consideration of the Government of Mysore are published for general information.

By order,
V. N. NARASIMMIYENGAR, *General Secretary.*

REGULATION No. OF 189

A Regulation to amend Regulation IV of 1888 *(the Mysore Land Revenue Code).*

Preamble.

Whereas it is expedient to amend Regulation IV of 1888 (the Mysore Land Revenue Code), the Government of Mysore is pleased to enact as follows :—

I. In Section 1 for the words "The Mysore Land Revenue Code 1888" substitute "The Mysore Land Revenue Code."

II. In Section 3, clause (1), for the words "records connected therewith" substitute the following, "records connected therewith, and includes officers in whom are vested the duties of controlling, distributing or regulating the supply and use, for irrigation or other purposes, of water available at or from any Government work or other source the right to which vests in Government."

III. In Section 27 for the words "or surety if in custody" substitute "or other person as aforesaid or surety or sureties if in custody."

Substitution for Chapter XIV of the Land Revenue Code.

IV. For Chapter XIV substitute the following, namely :—

"CHAPTER XIV.

"REVENUE JURISDICTION.

Mysore Land Revenue Code, Section 219.

Interpretation clause.

"219. In this chapter, unless there be something repugnant in the subject or context—

"Land."

"Land" includes the sites of villages, towns and cities; it also includes trees, growing crops and grass, fruit upon, and juice in, trees, rights of way, ferries and fisheries.

"Land Revenue."

"Land Revenue" means all sums and payments in money or in kind received or claimable by, or on behalf of, Government, from any person on account of land held by, or vested in, him, and any cess or rate authorized by Government under the provisions of any law for the time being in force.

—New—
Sir Mark Cubbon's Circular Order No. 30, dated 26th October 1854.

"Hereditary Officer."

"Hereditary officer or servant" includes any person holding an office which is remunerated by assignment of Government land, payments from the Public Treasury or payments in money or kind, enforcible by Government, from private individuals, and the succession to which is recognized by the Government to be hereditary, and includes also hereditary officers and servants in Government Muzrai institutions.

Mysore Land Revenue Code, Section 220.

Saving of provisions of Pensions Act.

"220. Nothing in this chapter shall affect any of the provisions of Act XXIII of 1871 (The Pensions Act).

Mysore Land Revenue Code, Section 221, except clauses (*h*) and (*i*).

Bar of certain suits.

"221. No Civil Court shall exercise jurisdiction as to any of the following matters :—

Hereditary Offices.

(*a*) Claims in respect of any property appertaining to the office of any hereditary officer or servant appointed or recognized as such by Government;

claims to perform the duties of any such officer or servant, or in respect of any injury caused by exclusion from such office or service; or

claims to set aside or avoid any order relating to such officer or servant, which may be passed by any officer duly authorized in that behalf; or

claims in respect of lands declared by Government, or any officer duly authorized in that behalf, to be held for any service whatsoever ;

(*b*) Objections—

to the amount or incidence of any assessment of land revenue authorized by Government, or to the mode of assessment, or to the principle on which such assessment is fixed ; or

Assessment and settlement.

to the validity or effect of the notification of survey or settlement, or of any notification determining the period of settlement ;

(*c*) Claims connected with or arising out of any proceedings for the realization of land revenue, or the rendering of assistance by Government, or any officer duly authorized in that behalf, to superior holders for the recovery of their dues from interior holders ; or claims to set aside on account of irregularity, mistake or any other ground except fraud, sales for arrears of land revenue ;

Realization of Land Revenue.

(*d*) Claims—

(1) to be entered in the Revenue survey or settlement records or village papers as liable for the land revenue, or as superior holder, interior holder, occupant or tenant; or

Entries in Survey records, &c.

(2) to have any entry made in any record of a Revenue survey or settlement ; or

(3) to have any such entry either omitted or amended ;

(*e*) Claims relating to the distribution of land or allotment of land revenue on partition of any estate under this Regulation, or under any other law for the time being in force ;

Partition of estates.

(*f*) Claims to hold land wholly or partially free from payment of land revenue ; or

Revenue free (Inam) lands, payments from Revenues, cesses and rates and occupation of Government land.

to receive payments charged on or payable out of land or other revenues ; or

to set aside any cess or rate authorized by Government under the provisions of any law for the time being in force ; or

respecting the occupation of waste or vacant land belonging to Government ;

(*g*) Claims regarding boundaries fixed under Bombay Act I of 1865 or under this Regulation, or under any other law for the time being in force, or to set aside any order passed by a competent officer under any such law with regard to boundary marks ; and

Boundaries.

—New—

(*h*) Claims relating to the supply and use of water, for irrigation or other purposes, available at or from any Government work or other sources, the right to which vests in the Government, or to the quantity, the mode of distribution, or the regulation, of such supply or use.

Government water.

222. In all matters specified in the last preceding section, the decision of the Government shall be final.

Finality to Government decisions.

Mysore Land Revenue Code, Section 222, clauses (*b*) & (*c*) and last para.

"223. Nothing in Section 221 shall be held to prevent the Civil Courts from entertaining the following suits :—

Saving of certain suits.

(*a*) Suits between private parties for the purpose of establishing any private right although it may be affected by any entry in any record of a Revenue survey or settlement, or in any village papers, or by any settlement of boundaries, made under Bombay Act I of 1865, this Regulation or any other law for the time being in force ; and

(*b*) Suits between superior holders and inferior holders, not otherwise expressly provided for by this Regulation.

Mysore Land Revenue Code, Section 222, clause (*a*).

"224. Nothing in Section 221 shall be held to prevent the Civil Courts from entertaining suits brought to contest a demand for public money or papers, or other Government property, or for land Revenue or rent due to the holder of a commission, or for land Revenue due to the Government, preferred in accordance with

Saving of certain other suits.

security bonds executed under Sections 27, 102 or 170; or to recover any amount, paid under protest under Sections 102 and 170 or realized by any process under Chapter XI;

when such suits are on the ground—

(1) that the claim in respect of which the demand, payment under protest or realization, had been made was in excess of what was authorized by Government in that behalf, or

(2) that such claim had been duly satisfied previous to such demand, payment under protest, or realization, or

(3) that the plaintiff or the person he represents was not liable to be proceeded against in respect of such claim.

—New—

"225. In every suit brought under the last preceding section, the Deputy Commissioner of the District in which the cause of action arose shall be made party in his official capacity.

Suits against Deputy Commissioners.

Mysore Land Revenue Code, Section 223, para 2.

"226. If any Revenue officer absconds or does not attend when called on by his official superior, and if the Deputy Commissioner of the District proceeds against him or his sureties for public money, papers or property, according to the provisions of this Regulation, or of any law for the time being in force, such Deputy Commissioner shall not be liable to pay damages or costs in any suit brought against him by such officer or sureties, although it appears that a part only, or no part whatever, of the sum demanded was due from the officer so absconding or failing to attend, or that he was not in possession of the papers or property demanded of him.

Bar of certain suits against Deputy Commissioners.

Mysore Land Revenue Code, Section 224.

"227. Nothing in any law for the time being in force which authorizes the punishment departmentally of any Revenue officer for any offence or breach of duty or which sanctions his prosecution criminally for such offence or breach, shall be held to bar any remedy which may be had in the Civil Court against such Officer.

Punishment or prosecution of Revenue Officers, no bar to Civil remedies.

Mysore Land Revenue Code, Section 226.

"228. If, in the trial or investigation of any suit, claim or objection which, but for the provisions of this chapter, might have been tried or investigated by a Civil Court or in any appeal against orders passed in such trial or investigation, there arises any question on which the Government, whether upon its own motion or upon the recommendation of the Deputy Commissioner, or upon the application of the party interested, desires to have the decision of the Chief Court, the Government may cause a statement of the question to be prepared and may refer such question for the decision of the Chief Court.

Power of Government to refer questions for decision of Chief Court.

The Chief Court shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the Court house.

The parties to the case may appear and be heard in the Chief Court in person, or by their Advocates or Pleaders.

The Chief Court, when it has heard and considered the case, shall send a copy of its decision, with the reasons therefor, under the seal of the Court, to the Government by which the reference was made, and the case shall be disposed of conformably to such decision.

If the Chief Court considers that any such statement is imperfectly framed, the Chief Court may return it for amendment.

The costs (if any) consequent on any such reference shall be dealt with as the Chief Court in each case directs.

Mysore Land Revenue Code, Section 227.

"229. If, in any suit instituted, or in any appeal presented, in a Civil Court, the Judge doubts whether he is precluded by this Chapter from taking cognizance of the suit or appeal, he may refer the matter to the Chief Court.

Power of Civil Judge to refer questions of jurisdiction to Chief Court.

The Chief Court may order the Judge making the reference either to proceed with the case or to return the plaint.

The order of the Chief Court on any such reference shall be final.

Mysore Land Revenue Code, Section 228.

"230. If the Chief Court consists of three or more Judges, every reference under Section 228 or Section 229 shall be heard by a Bench consisting of such number of Judges not less than three as the Chief Judge from time to time directs."

Composition of Bench.

V. This Regulation shall come into force on the passing thereof.

REGULATION No. OF 189 .

A Regulation for the Protection of Judicial, Police, Revenue and other Public Officers.

For the greater protection of Judicial, Police, Revenue and other Public Officers, the Government of Mysore has been pleased to enact as follows :—

Preamble.

1. In this Regulation, "Public Officer" means a "Public Officer" as defined in the Code of Civil Procedure and includes a "Revenue Officer" as defined in the Mysore Land Revenue Code.

Definition.

Judicial Officers Protection Act XVIII of 1850, Section 1.

2. No Judge, Magistrate, Revenue Officer, or other person acting judicially, shall be liable to be sued in any Civil Court, for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction: provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of: and no officer of any court or other person, bound to execute lawful warrants or orders of any such Judge, Magistrate, Revenue Officer, or other person acting judicially, shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.

Non-liability to suit of officers acting judicially, for official acts done in good faith, and of Officers executing warrants and orders.

Section 43 of Act V of 1861.

3. When any action or prosecution shall be brought or any proceedings held against any Police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate.

Protection of Police officers.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decision in his favor, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine.

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section.

Proviso.

Section 223, para 1. Mysore Land Revenue Code and Spooner *v.* Juddow, 4 Moore, page 353.

4. A Public Officer shall not be liable to be sued in any Civil Court for any act done or ordered to be done by him, in the exercise of his official duty as such Public Officer under the provisions of any law for the time being in force or under any general or special order of the Government, whether or not such act was in accordance with such law or order of Government as aforesaid, provided that, when such act was not in accordance with such law or order of Government as aforesaid, he, at the time in good faith believed that he was acting in accordance with such law or order of Government as aforesaid.

Bar of suits against Public Officers.

Section 225, Land Revenue Code.

5. No Civil Court shall entertain any suit against any Public Officer on account of any official act or omission, unless the plaintiff first proves that previously to bringing his suit, he has presented all such appeals to the authorities superior to such Officer, as, within the period of limitation allowed for bringing such suit, it was possible to present.

Suits not to be entertained unless plaintiff has exhausted right of appeal.

Section 229 of the Mysore Land Revenue Code and Bombay Moffusil Courts Act XIV of 1869, Section 32.

6. No Munsiff, Subordinate Judge or Court of Small Causes shall receive or register a suit against a Public Officer in respect of an act purporting to have been done by him in his official capacity; but in every such case, such Munsiff, Judge or Court shall refer the plaintiff to the District Judge in whose Court alone such suit shall be instituted.

Reference of Government suits to District Judge.

Section 230 of the Mysore Land Revenue Code.

7. In any suit which may be brought against any public officer in respect of an official act, and of which the defence may be undertaken by the Government, it shall be lawful for the Government to require that the trial of any such suit shall have precedence over the trial of any other suit or other civil proceeding then pending in such Court, and the Court shall give effect to every such requirement.

Privileges of Government in suits defended by it.

The privilege conferred on the Government by this section shall *mutatis mutandis* apply to any appeal or second appeal against any decree in any such suit as is described in this section.